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SACRAMENTO COURTS
DEPT. #53 #54

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9 SUPERIOR COURT OF CALIFORNIA
10 COUNTY OF SACRAMENTO
11

12 **PEOPLE OF THE STATE OF CALIFORNIA, ex**
13 **rel. BILL LOCKYER, Attorney General of the State**
14 **of California,**
15
16 **Plaintiff,**
17
18 **v.**
19
20 **SEKAP S.A., GREEK COOPERATIVE**
21 **CIGARETTE MANUFACTURING COMPANY,**
22 **S.A. a.k.a. SEKAP S.A. (SEKAP) a foreign**
23 **corporation, and DOES 1 through 10, inclusive,**
24
25 **Defendants.**

03AS06076

**[PROPOSED] JUDGMENT BY
COURT AFTER ENTRY OF
DEFAULT**

20 THIS MATTER is before the Court on *Plaintiff's Request for Entry of Default*
21 *Judgment* against defendant SEKAP S.A., Greek Cooperative Cigarette Manufacturing
22 Company, S.A., a.k.a. SEKAP S.A. (hereinafter "SEKAP"). This Court has considered
23 *Plaintiff's Request for Entry of Default Judgment* and accompanying declarations, papers and
24 exhibits thereto, and the entire record in this matter and hereby finds as follows:
25 1. The Attorney General of the State of California brings this action on behalf of
26 plaintiff, the People of the State of California, pursuant to California Health and Safety Code
27 section 104557(c), to enforce the reserve fund requirements of California Health and Safety Code
28 sections 104555-104557 and California Business and Professions Code section 17200 et seq.

1 2. Defendant **SEKAP** manufactures cigarettes intended for sale in the United States
2 and thus falls within the statutory definition of a "tobacco product manufacturer" as defined in
3 California Health and Safety Code section 104556(i). **SEKAP** has sold and continues to sell
4 cigarettes (as defined in section 104556(d)) directly or indirectly, to consumers in California and,
5 accordingly, has transacted and is transacting business within the State of California.

6 3. At least thirty (30) days have passed since the date of service of the Summons and
7 Verified Complaint on **SEKAP** and **SEKAP** has failed to appear and defend in this Court.

8 4. Defendant **SEKAP** was not at the time of service of the Summons and Verified
9 Complaint, nor is now, an infant or minor, a financially incapable, incapacitated or incompetent
10 person, nor in the military service as defined by Article 1 of the "Soldiers' and Sailors' Civil
11 Relief Act of 1940" as amended (50 U.S.C. Appen. § 501 et seq.).

12 5. Jurisdiction has been reviewed and is proper over **SEKAP** pursuant to California
13 Code of Civil Procedure section 410.10.

14 6. Venue has been reviewed and is proper pursuant to California Code of Civil
15 Procedure section 393.

16 7. **SEKAP** has failed and continues to fail and/or otherwise comply with the reserve
17 fund requirements of California Health and Safety Code, sections 104555-104557 and
18 implementing regulations (Calif. Code of Reg., tit. 11, §§ 999.10a through 999.14).

19 8. **SEKAP** has engaged in and continues to engage in acts of unfair competition as
20 defined in California Business & Professions Code section 17200, in that the defendant has failed
21 to establish the required reserve fund and failed to certify compliance to the Attorney General, in
22 violation of California Health and Safety Code sections 104555, 104556, and 104557 and
23 implementing regulations.

24 9. Notwithstanding notice, **SEKAP** failed to certify to the Attorney General that a
25 qualified escrow fund (as defined in California Health and Safety Code section 104556(f)) has
26 been established and also failed to make the deposit for its 2002 sales in California as required
27 under California Health and Safety Code section 104557. Accordingly, the defendant's actions
28 constitute one or more "knowing" violations.

1 10. SEKAP has committed two or more knowing violations of California Health and
2 Safety Code section 104557 and is therefore subject to the maximum sanctions and penalties
3 provided for under the reserve fund requirements of California Health and Safety Code section
4 104557.

5 **THEREFORE**, default having been entered by the clerk against defendant SEKAP,
6 as requested by plaintiff, **JUDGMENT** is accordingly entered in favor of the plaintiff and against
7 the defendant with respect to all claims, **AS FOLLOWS**:

8 A. SEKAP shall, within fifteen (15) days of this Order, establish a qualified escrow fund
9 and place into said fund the following amount as adjusted for inflation as required by California
10 Health and Safety Code section 104557(a)(2):

11 Sales during the year 2002:

12 (36,010,400 units x \$0.0136125%) plus 12.97355% for inflation for a total of
13 \$553,786.

14 B. SEKAP shall, within fifteen (15) days of this Order, provide plaintiff with a list of
15 the names of all of the cigarette brands manufactured by SEKAP, as well as unit sales
16 information and supporting documentation for its sales in California in 2002.

17 C. SEKAP shall, within fifteen (15) days of this Order, pay civil penalties in the amount
18 of 300% of the escrow amounts improperly withheld, for a total of \$1,661,358 for knowingly
19 violating California Health and Safety Code section 104557(a)(2), (c), by failing to certify
20 compliance with California's reserve fund statute to the Attorney General and knowingly failing
21 to establish a qualified escrow fund as defined under California Health and Safety Code section
22 104556(f) and knowingly failing to deposit sufficient funds into a qualified escrow fund as
23 required under California Health & Safety Code section 104557.

24 D. Pursuant to California Business and Professions Code, section 17203, SEKAP is
25 hereby enjoined and otherwise prohibited from selling *any* of its cigarettes in California
26 commencing from the date of this Order, either directly or through a distributor, retailer or other
27 intermediary, *including but not limited to*, the following brands: "Ideal," "GR," and "Marathon."
28 The injunction shall commence from the date of this Order and continue until SEKAP

1 SEKAP establishes a qualified escrow fund, deposits the sums now owed for all prior sales
2 years, and provides to the Attorney General the annual compliance certifications required by
3 section 104557 and implementing regulations.

4 After the sales ban elapses, SEKAP shall make quarterly deposits into a qualified escrow
5 fund for five (5) years after SEKAP is permitted to resume selling cigarettes in California,
6 directly or through a distributor, retailer or similar intermediary.

7 E. Pursuant to Business and Professions Code section 17206, SEKAP shall, within
8 fifteen (15) days from the date of this Order, pay a penalty of \$2,500.00 for each violation of
9 Business and Professions Code section 17200 alleged in the Third Cause of Action, for a total
10 assessed penalty of \$10,000.00.

11 F. The defendant shall, within fifteen (15) days from the date of this Order, appoint an
12 agent for service of process in California for any action to enforce any resulting injunction(s)
13 and/or judgment in the within action.

14 G. The Court further orders that plaintiff may confiscate and destroy any and all of the
15 tobacco products offered for sale in California by SEKAP while the injunction banning sales is
16 in place.

17 H. The Court shall retain jurisdiction in this matter.

18 I. SEKAP shall within fifteen (15) days of this Order, pay all plaintiff's reasonable
19 costs, including \$2,310.00 for service and translation costs, as well as filing fees in the amount of
20 \$241.50 pursuant to Government Code section 6103.5 and subject to modification and/or further
21 relief as this Court deems just and proper.

22 J. The Court further orders, as just and appropriate, the following:

- 23 1) Name/Address of Judgment Creditor:
24 State of California
25 c/o Department of Justice-Office of the Attorney General
26 1300 I. Street
27 P.O. Box 944255
28 Sacramento, CA 94244-2550
- 2) Name/Address/Phone-Judgment Creditor's Attorney:
Michele M. DeCristoforo
Deputy Attorney General

1 Department of Justice-Office of the Attorney General
2 1300 I. Street
3 P.O. Box 944255
4 Sacramento. CA 94244-2550

5 3) Name/Address-Judgment Debtor:
6 **SEKAP S.A.**
7 **XANTHI 6TH KLM**
8 **KAVALA ROAD**
9 **GR - 67100**
10 **XANTHI, GREECE**

11 4) Principal Amount of Judgment for Escrow: \$ 553,786.00

12 5) Principal Amount of Judgment for Penalties: \$1,671,358.00
13 (Health & Saf. Code, §104557 and Bus. & Prof. Code,
14 § 17200 et seq)

15 6) Costs: \$ 2,551.50

16 7) Post-judgment simple interest at the rate of ten percent (10%) per annum on the total
17 judgment which consists of item 5 from the date of judgment is entered until fully
18 paid. Interest is compounded annually.

19 IT IS SO ORDERED, ADJUDGED AND DECREED.

20 Dated: JUL - 1 2004
21 _____, 2004

22 SHELLEYANNE W.L. CHANG

23 Judge of the Superior Court
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